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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

SCOTT R.,  
Plaintiff,  
v.  
FRANK BISIGNANO,  
Commissioner of Social Security<sup>1</sup>,  
Defendant.

Case No. 2:22-cv-05136-KES

MEMORANDUM OPINION  
AND ORDER

**I.**

**INTRODUCTION**

On July 25, 2022, Plaintiff Scott R. (“Plaintiff”) filed a Complaint for review of denial of social security disability benefits. (Dkt. 1.) On October 24, 2022, the parties stipulated to remand the case for further administrative proceedings because the “recording of the hearing ... had technical problems which interfered with

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<sup>1</sup> Frank Bisignano became Commissioner of Social Security on May 7, 2025. Under Federal Rule of Civil Procedure 25(d), he is automatically substituted as Defendant in this suit. The Clerk is directed to update the electronic docket accordingly.

1 transcription, resulting in an incomplete administrative record.” (Dkt. 14.)

2 Accordingly, the Court remanded the case. (Dkt. 15.)

3 On October 30, 2024, an Administrative Law Judge (“ALJ”) published a  
4 partially favorable decision. Administrative Record (“AR”) 1-19. On February  
5 21, 2025, the parties filed a stipulation to reopen the case and set a briefing  
6 schedule. (Dkt. 16.) Plaintiff filed Plaintiff’s Brief under Rule 6 of the  
7 Supplemental Rules for Social Security Actions under 42 U.S.C. § 405(g) asking  
8 this Court to reverse the unfavorable portion of the ALJ’s decision and remand for  
9 calculation of benefits. (“PB” at Dkt. 19.) Defendant filed a Commissioner’s  
10 Brief under Rule 7. (“CB” at Dkt. 22.) Defendant concedes that the ALJ erred but  
11 nevertheless urges this Court to remand the case for further administrative  
12 proceedings. (*Id.*) Plaintiff filed a Reply Brief. (“PRB” at Dkt. 23.)

## 13 II.

### 14 BACKGROUND

#### 15 A. The ALJ’s First Decision.

16 In April 2019, Plaintiff filed an application for Title II Disability Insurance  
17 Benefits (“DIB”) alleging a disability onset date of February 1, 2019, when he was  
18 fifty years old. AR 314. On January 19, 2021, an ALJ conducted a hearing at  
19 which Plaintiff, who appeared via teleconference and was represented by counsel,  
20 testified, along with a Vocational Expert (“VE”). AR 57-67. On May 10, 2021,  
21 the ALJ published an unfavorable decision. AR 114-122.

22 The ALJ found that Plaintiff suffered from the severe, medically  
23 determinable impairments (“MDIs”) of “chronic heart failure, ischemic heart  
24 disease, and cardiac dysrhythmias ....” AR 117. Despite these MDIs, the ALJ  
25 determined that Plaintiff had the residual functional capacity (“RFC”) to perform  
26 light work with some additional restrictions. AR 117. Based on the RFC findings,  
27 the VE’s testimony, and other evidence, the ALJ found that Plaintiff was unable to  
28 perform his past relevant work as a baseball coach (Dictionary of Occupational

1 Titles (“DOT”) 153.227-010), but he could work as a teacher’s aide (DOT  
2 249.367-074), a physical instructor (DOT 153.227-014), and a recreational facility  
3 manager (DOT 187.167-230). AR 121-22. The ALJ concluded that Plaintiff was  
4 not disabled. AR 122.

5 On July 25, 2022, Plaintiff appealed this decision to the District Court. AR  
6 97-100. On October 25, 2022, the Court remanded the case under sentence six per  
7 the parties’ stipulation because technical problems prevented a complete recording  
8 of the January 19, 2021 hearing. AR 101-104; Dkt. 14.

9 Meanwhile, Plaintiff “filed a subsequent claim for Title II period of  
10 disability and disability insurance benefits on August 22, 2022.” AR 108.

11 **B. The ALJ’s Second Decision.**

12 On March 21, 2024, the ALJ conducted a telephonic hearing at which  
13 Plaintiff, who appeared via teleconference and was represented by counsel,  
14 testified, along with a VE. AR 32-56. On July 24, 2024, the ALJ conducted a  
15 supplemental telephonic second hearing at which a medical expert (“ME”) testified  
16 about Plaintiff’s heart condition and resulting limitations. AR 22-31.

17 On October 30, 2024, the ALJ published a partially favorable decision. AR  
18 1-19. The ALJ determined that, since February 1, 2019, Plaintiff had the RFC to  
19 perform light work “except occasionally balance, stoop, kneel, crouch, crawl and  
20 climb ramps/stairs, ladders, ropes, and scaffolds.” AR 7. The ALJ determined that  
21 Plaintiff “has no past relevant work ....” AR 10. The ALJ further found that  
22 “[p]rior to the established disability onset date, [Plaintiff] was an individual closely  
23 approaching advanced age.” AR 10. On March 2, 2023, Plaintiff turned fifty-five,  
24 and the “age category changed to an individual of advanced age ....” AR 10.  
25 “Prior to March 2, 2023, the date [Plaintiff’s] age category changed, considering  
26 [Plaintiff’s] age, education, work experience, and residual functional capacity,  
27 there were jobs that existed in significant numbers in the national economy that  
28 [Plaintiff] could have performed ....” AR 10.

1 However, “[b]eginning on March 2, 2023, the date [Plaintiff’s] age category  
 2 changed, considering [Plaintiff’s] age, education, work experience, and residual  
 3 functional capacity, there are no jobs that exist in significant numbers in the  
 4 national economy that [Plaintiff] could perform ....” AR 11. After that date,  
 5 “considering [Plaintiff’s] age, education, and work experience, a finding of  
 6 ‘disabled’ is reached by direct application of Medical-Vocational Rule 202.04.”<sup>2</sup>  
 7 AR 11. In other words, the ALJ found that Plaintiff was not disabled between the  
 8 alleged onset date of February 1, 2019, and his fifty-fifth birthday on March 2,  
 9 2023, but applying the Grids, he became disabled as of that date. AR 11.

### 10 III.

### 11 LEGAL STANDARD

12 Federal district courts review administrative decisions in social security  
 13 disability benefits cases under 42 U.S.C. § 405(g). District courts can reverse an  
 14 administrative decision only if the ALJ made an error of law or factual findings  
 15 without substantial evidentiary support. *Id.*; *Shaibi v. Berryhill*, 883 F.3d 1102,  
 16 1106 (9th Cir. 2018). District courts have the “power to enter, upon the pleadings  
 17 and transcript of record, a judgment affirming, modifying, or reversing the decision  
 18 of the Commissioner, with or without remanding the cause for a rehearing.” 42  
 19 U.S.C. § 405(g). Under the rule of mandate, on remand, the ALJ must follow the  
 20 directives of the district court. *Stacy v. Colvin*, 825 F.3d 563, 566 (9th Cir. 2016).  
 21 Reversal is warranted if the ALJ’s decision “exceeds the scope of and/or  
 22 contravenes district court remand orders.” *Alfaro-Burciaga v. Saul*, No. 8:19-CV-

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23  
 24 <sup>2</sup> The Medical-Vocational Guidelines, commonly referred to as the Grids,  
 25 are a matrix system for handling claims that involve substantially uniform levels of  
 26 impairment. See 20 C.F.R. pt. 404, subpt. P, app 2. According to the Grids, an  
 27 individual in the “advanced age” category with a high school education who is  
 28 limited to light work and who lacks transferable skills – like Plaintiff after March  
 2, 2023 – qualifies as disabled. *Julia R. v. Acting Comm’r of Soc. Sec.*, No. 1:24-  
 cv-00011-RRB, 2025 U.S. Dist. LEXIS 40637, at \*15 (D. Alaska Mar. 4, 2025).

1 00320-VEB, 2020 U.S. Dist. LEXIS 158499, at \*12 (C.D. Cal. Aug. 31, 2020).

2 Generally, when a district court reverses an ALJ's decision, it remands "to  
3 the agency for additional investigation or explanation." Benecke v. Barnhart, 379  
4 F.3d 587, 595 (9th Cir. 2004). However, when "it is clear from the record that the  
5 claimant is unable to perform gainful employment in the national economy ...  
6 remand for an immediate award of benefits is appropriate." Id. Under the Ninth  
7 Circuit's credit-as-true rule, courts may credit as true improperly rejected medical  
8 opinions or claimant testimony and remand for an award of benefits if each of the  
9 following conditions is satisfied: "(1) the record has been fully developed and  
10 further administrative proceedings would serve no useful purpose; (2) the ALJ has  
11 failed to provide legally sufficient reasons for rejecting evidence, whether claimant  
12 testimony or medical opinion; and (3) if the improperly discredited evidence were  
13 credited as true, the ALJ would be required to find the claimant disabled on  
14 remand." Garrison v. Colvin, 759 F.3d 995, 1020 (9th Cir. 2014) (citing Ryan v.  
15 Comm'r of Soc. Sec., 528 F.3d 1194, 1202 (9th Cir. 2008)). If the "credit-as-true  
16 rule" is satisfied, the district court may remand for further proceedings instead of  
17 for an award of benefits, "when the record as a whole creates serious doubt as to  
18 whether the claimant is, in fact, disabled within the meaning of the Social Security  
19 Act." Id. at 1021.

20 A district court's "determination whether the remand should be for further  
21 proceedings or for immediate payment of benefits" is reviewed for abuse of  
22 discretion. Harman v. Apfel, 211 F.3d 1172, 1175, 1178 (9th Cir. 2000).

#### 23 IV.

#### 24 DISCUSSION

25 The parties have stipulated that this case satisfies the second condition for  
26 applying the credit-as-true rule, i.e., the ALJ failed to give sufficient reasons for  
27 discounting the testimony of ME cardiologist Harvey Alpern, M.D. The Court,  
28 therefore, considers the other two, both of which must be satisfied for the credit-as-

1 true rule to apply.

2 **A. Development of the Record.**

3 Defendant contends that more information is needed to understand Dr.  
4 Alpern's assessment of Plaintiff's ability to stand and walk because the record  
5 contains conflicting evidence. (CB at 4.) Specifically, Dr. Alpern opined that  
6 Plaintiff could only stand or walk two hours in an eight-hours workday. AR 29.  
7 Neither the ALJ nor Plaintiff's counsel questioned Dr. Alpern about the reasoning  
8 underlying this opinion. AR 29-30. In contrast, Plaintiff testified that he could  
9 stand for up to four hours plus walk for up to two hours. (CB at 4, citing AR 29,  
10 44.) Similarly, the state agency consultants' opinions found that Plaintiff could  
11 stand and/or walk for about six hours in an eight-hour workday and could perform  
12 light work. AR 76-77, 87-88. The consultative examiner opined that Plaintiff had  
13 no standing, walking, or sitting limitations. AR 1036. Those earlier medical  
14 opinions, however, were rendered in 2019, before Plaintiff required an additional  
15 heart surgery in 2023. AR 68-79, 81-90, 1031-39, 1221. Finally, the ALJ failed to  
16 evaluate an opinion from Plaintiff's treating physician that "did not identify *any*  
17 limitations in standing or walking ..." because those portions of the form were left  
18 blank. (CB at 4-5, citing AR 1089-90 (emphasis in original).)

19 Defendant also argues that remand would enable the "ALJ to consolidate  
20 Plaintiff's current claim with his later claim filed in August 2022." (CB at 4.)  
21 This would permit the ALJ to review "[e]vidence from the file for the later claim  
22 [that] pertains to the period prior to March 2, 2023 and is relevant to the ALJ's  
23 evaluation of whether Plaintiff was disabled during that time." (*Id.*) Plaintiff says  
24 that the subsequent application is moot because the ALJ found Plaintiff disabled as  
25 of March 2, 2023 (PRB at 4), but because that application was filed in August  
26 2022, it addresses several months during the period at issue.

27 Ultimately, the facts that Dr. Alpern's opinions restricted Plaintiff more than  
28 his own testimony, that some of the medical opinion evidence was stale or not

1 discussed, and that no one questioned Dr. Alpern about the reasons for his  
2 standing/walking limitations, persuade the Court that further administrative  
3 proceedings to develop the record would be useful. This conclusion is reinforced  
4 by the facts that (1) a remand for further proceedings will allow the ALJ to  
5 consolidate this claim with the claim filed in August 2022 and (2) the stipulated  
6 remand in October 2022 was not the result of the ALJ's error but instead a  
7 technical problem with the recording equipment.

8 **B. The Effect of Crediting Dr. Alpern's Testimony.**

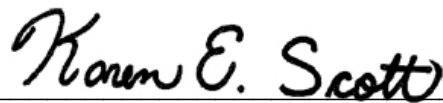
9 The Court declines to address this issue, having already found that one of the  
10 three conditions needed to apply the credit-as-true doctrine has not been satisfied.

11 **V.**

12 **CONCLUSION**

13 For the reasons stated above, IT IS ORDERED that (1) the Motion for  
14 Remand (Dkt. 19) is GRANTED; and (2) Judgment shall be entered REVERSING  
15 the portion of the Commissioner's decision denying benefits and REMANDING  
16 the case for further proceedings consistent with this decision, including  
17 development of the record.

18  
19 DATED: June 24, 2025

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21 KAREN E. SCOTT  
22 United States Magistrate Judge  
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